

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

**CITY OF DARDANELLE and
YELL COUNTY WILDLIFE FEDERATION, INC.**

PLAINTIFFS

v.

No. 4:14-cv-98-DPM

**DEPARTMENT OF TRANSPORTATION;
FEDERAL HIGHWAY ADMINISTRATION;
ARKANSAS STATE HIGHWAY &
TRANSPORTATION DEPARTMENT; RIVER
VALLEY REGIONAL INTERMODAL
AUTHORITY; and DEPARTMENT OF DEFENSE,
United States Army Corps of Engineers,
Little Rock District**

DEFENDANTS

ORDER

The Court must review the complete administrative record that was before the FHWA and Corps when they made their decisions. *Voyageurs National Park Association v. Norton*, 381 F.3d 759, 766 (8th Cir. 2004). And the Corps' designation of its record is entitled to a presumption of regularity. *Citizens to Preserve Overton Park, Inc. v. Volpe*, 401 U.S. 402, 415 (1971). The Court concludes, however, that the plaintiffs have shown the Corps considered information not in its lodged record, No 106, as supplemented, No 116. The plaintiffs have sufficiently identified a document that should have been included, and raised a strong and reasonable inference that other

missing materials exist. *Committee of 100 on the Federal City v. Foxx*, 140 F. Supp. 3d 54, 60 (D.D.C. 2015). The Court directs the Corps to produce the following to further supplement its administrative record:

- The “draft response” referenced in the 23 October 2014 email, COE0000476.
- Any minutes, notes, or other records from the October 2014 Galveston meeting about the River Valley Intermodal Facility.
- Any communications, memoranda, or other records regarding the Southwestern Division’s concerns mentioned in paragraph 3 of the 29 October 2014 “Memorandum for Record,” COE0000478.

The Corps should produce this information as soon as practicable and no later than 7 July 2017. As soon as the record is completed, the Court will set the briefing schedule. Motion, *No* 108, as supplemented by *No* 122, granted as modified.

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

8 June 2017